

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

In the Matter of

Samsonite Corporation

Case No. 95-18

ORDER

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the "Act"),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 768-799 (1997), as amended (61 *Fed. Reg.* 12714 (March 25, 1996)) (the "Regulations")),<sup>2</sup> against Samsonite Corporation ("Samsonite"), a domestic concern resident in the State of Colorado, based on the allegations set forth in the Proposed Charging Letter, dated April 21, 1997, attached hereto and incorporated herein by this reference;

The Department and Samsonite having entered into a Settlement Agreement, incorporated herein by this reference, whereby Samsonite has agreed to settle this matter by payment of a civil penalty in the amount of \$25,000 to the Department; and

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<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 *Fed. Reg.* 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

<sup>2</sup> The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25 *Federal Register* publication restructured and reorganized the Regulations. The restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, established the procedures that apply to this Order.

The Assistant Secretary for Export Enforcement having approved the terms of the Settlement Agreement;

IT IS THEREFORE ORDERED THAT,

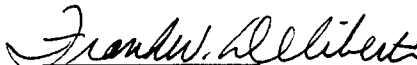
FIRST, a civil penalty in the amount of \$25,000 is assessed against Samsonite;

SECOND, Samsonite shall pay to the Department, in complete settlement of this matter, the sum of \$25,000 within twenty (20) days of service of this Order as specified in the attached instructions;

THIRD, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty assessed herein is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to Samsonite. Accordingly, if Samsonite should fail to pay in a timely manner the civil penalty assessed against it, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Samsonite's export privileges for a period of one year from the date of the entry of this Order; and

FOURTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Samsonite.

This Order is effective immediately.

  
Frank W. Deliberti  
Acting Assistant Secretary  
for Export Enforcement

Entered this 27th day of June, 1997.

INSTRUCTIONS FOR PAYMENT OF CIVIL PENALTY

1. The civil penalty check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce  
Bureau of Export Administration  
Room 6622  
14th & Constitution Avenue, N.W.  
Washington, D.C. 20230

Attn: Miriam Cohen

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

In the Matter of

Samsonite Corporation

Case No. 95-18

SETTLEMENT AGREEMENT

This agreement is made by and between Samsonite Corporation ("Samsonite"), a domestic concern resident in the State of Colorado, and the United States Department of Commerce ("Department"), pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 768-799 (1997), as amended (61 *Fed. Reg.* 12714 (March 25, 1996)) (the "Regulations")),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996)) (the "Act").<sup>2</sup>

WHEREAS, the Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce, has notified Samsonite of its intention to initiate an administrative proceeding against Samsonite pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter, dated April 21, 1997, attached hereto and incorporated herein by this reference; and

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<sup>1</sup> The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25 *Federal Register* publication restructured and reorganized the Regulations. The restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, established the procedures that apply to this Settlement Agreement.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 *Fed. Reg.* 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).

WHEREAS, Samsonite has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Samsonite fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Samsonite neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Samsonite agrees to be bound by the appropriate Order ("Order") when entered;

NOW THEREFORE, Samsonite and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Samsonite, to the extent permitted by law, with respect to the matters alleged in the Proposed Charging Letter.
2. In complete settlement of all matters set forth in the Proposed Charging Letter, Samsonite will pay to the Department, within 20 days of service upon it of the appropriate Order, when entered, the amount of \$25,000
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Samsonite. Failure to make timely payment of the civil penalty shall

result in the denial of all of Samsonite's export privileges for a period of one year from the date of entry of the Order imposing the civil penalty.

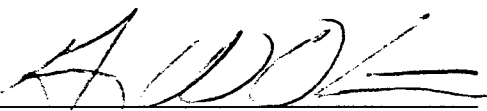
4. Subject to approval of this settlement agreement, pursuant to paragraph 10 hereof, Samsonite waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:
  - a. An administrative hearing regarding the allegations in the Proposed Charging Letter;
  - b. Request a refund of the funds paid by Samsonite pursuant to this Settlement Agreement and the Order, when entered; or
  - c. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
5. The Department represents that it will not, prior to entry of the appropriate Order or a decision by the Assistant Secretary not to enter such Order, initiate any administrative or judicial proceedings against Samsonite or make any referral to the Department of Justice or any other agency of the United States Government for possible enforcement action against Samsonite with respect to any alleged violation of the Act or the Regulations arising out of the matters set forth in the Proposed Charging Letter or any other matter that was disclosed to or reviewed by the Department prior to execution of this Settlement Agreement.
6. The Department, upon entry of the Order, will not subsequently initiate any further administrative or judicial proceeding, or make a referral to the Department

of Justice for criminal proceedings against Samsonite, with respect to any alleged violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.

7. Samsonite understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
8. This Settlement Agreement is for settlement purposes only, and does not constitute a finding or determination by the Department or an admission by Samsonite that it has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Samsonite in any administrative or judicial proceeding.
9. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed. This paragraph shall not limit Samsonite's right to challenge any action brought by any other agency based on a referral by the Department or any employee thereof in contravention of paragraph 5 or paragraph 6 of this Settlement Agreement.


10. This Settlement agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

~~THE~~ Samsonite Corporation

By:   
Title: ~~Patent Counsel & Assistant~~  
Secretary

Date: June 6, 1997

U.S. DEPARTMENT OF COMMERCE

  
Dexter M. Price  
Acting Director  
Office of Antiboycott Compliance

Date: June 9, 1997





PROPOSED CHARGING LETTER

April 21, 1997

Samsonite Corporation  
11200 East 45th Avenue  
Denver, Colorado 80239

Attention: Mr. D. Michael Clayton  
General Counsel,  
Vice President & Secretary

Re: Samsonite Corp.  
Case No. 95-18

Gentlemen/Ladies:

We have reason to believe and charge that you, Samsonite Corporation, have committed ten (10) violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768-799 (1997), as amended (61 Fed. Reg. 12714, March 25, 1996)) (the "Regulations")<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1996))(the "Act").<sup>2</sup> We charge that you failed to report, in ten instances, receipts of requests to engage in restrictive trade practices or boycotts, in violation of § 769.6 of the former Regulations.

We allege that:

1. You are a domestic concern resident in the State of Colorado and, as such, you are a United States person as defined in § 760.1(b) of the Regulations.
2. Between June 1992 and September 1993, you received requests to engage in restrictive trade practices or boycotts, relating to ten (10) transactions involving the sale of goods from the United States to Kuwait and Pakistan, activities in the interstate or foreign commerce of the United States as defined in § 769.1(d) of the former Regulations.

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<sup>1</sup> The alleged violations occurred in 1992 and 1993. The Regulations governing the violation at issue are found in the 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992 and 1993)). Those Regulations define the violations that the Bureau of Export Administration alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, to be codified at 15 C.F.R. Parts 730-774, established the procedures that apply to the matter in this letter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996, (61 Fed. Reg. 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1996)).



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3. In connection with the transactions described in paragraph 2 above, you received requests on ten (10) occasions, described more fully in Table A, which is attached and incorporated by this reference, to engage in restrictive trade practices or boycotts, which you failed to report to the Department as directed by § 769.6 of the former Regulations. By failing to so report, you are in violation of § 769.6 of the former Regulations. We charge you with ten (10) violations of § 769.6 of the former Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions.<sup>3</sup>

If you fail to answer the allegations contained in this letter within thirty days (30) after service as provided in § 766.6, such failure will be treated as a default under § 766.7.

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and, under Section 766.18 of the Regulations, to seek a settlement agreement.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center  
40 South Gay Street  
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

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<sup>3</sup> Administrative sanctions may include any or all of the following:

- a. Denial of export privileges (see § 764.3(a)(2) and §§ 788A.3(a)(1) and (2) of the Regulations);
- b. Exclusion from practice (see § 764.3(a)(3) and § 788A.3(a)(3) of the Regulations); and/or
- c. The maximum civil penalty of \$10,000 per violation (see § 764.3(a)(1) and § 788A.3(a)(4) of the Regulations).

TABLE A

Schedule of Alleged Violations of § 769.6  
Failures to Report Receipt of Boycott Requests

Samsonite Corp., Case No. 95-18

<u>Item</u>	<u>Issuing Bank Letter of Credit No.</u>	<u>Date Request Received (on or about)</u>	<u>Boycotting Country</u>	<u>Code to Reportable Request</u>
1.	600/14419	6/15/1992	Kuwait	A
2.	600/14899	7/21/1992	Kuwait	A
3.	600/17283	2/2/1993	Kuwait	A
4.	600/18258	5/5/1993	Kuwait	A
5.	600/18259	4/28/1993	Kuwait	A
6.	600/19968	8/17/1993	Kuwait	A
7.	600/19969	8/17/1993	Kuwait	A
8.	600/20238	8/15/1993	Kuwait	A
9.	600/20239	8/15/1993	Kuwait	A
10.	0001/01/45/ 039/DFSL	8/6/1993	Pakistan	B

A

**OTHER TERMS AND CONDITIONS WHICH CONSTITUTE  
AN INTEGRAL PART OF OUR CREDIT**

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4. Kuwaiti laws prohibit import of goods of . . . ISRAELI Origin. Therefore documents covering goods partly/wholly originating from these countries will not be accepted.

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**OTHER ESSENTIAL CONDITIONS:-**

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7. GOODS MANUFACTURED/PRODUCED/GROWN/PROCESSED (PARTLY OR WHOLLY) IN ISRAEL . . . NOT ACCEPTABLE/GOOD  
MANUFACTURED/PRODUCT/GROWN/PROCESSED WHOLLY IN ACCEPTABLE.